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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,886	09/25/2003	Carl J. Kissell	20121-72260	5999

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EXAMINER

NGUYEN, PHONG H

ART UNIT PAPER NUMBER

3724

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/670,886	Applicant(s) KISSELL ET AL.	
	Examiner Phong H Nguyen	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 23-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 17-22 is/are rejected.
- 7) ☒ Claim(s) 3-16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-22, drawn to a method of producing a frangible fiberglass, classified in class 83, subclass 22.
 - II. Claims 23-26, drawn to a water jet assembly, classified in class 83, subclass 53.

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the claimed process can be practiced by another apparatus. For example, intermittent gaps on a fiberglass insulation batt can be formed by cutting knives instead of water jets.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Richard Rezek on 02/16/2006 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-22. Affirmation of this election must be made by applicant in replying to this Office action. Claims 23-26 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 and 17-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Weinstein et al. (6,670,011 B2), hereinafter Weinstein.

Regarding claims 1, 18 and 19, Weinstein teaches a method for producing a frangible fiberglass insulation batt, the method comprising the steps of:

passing a fiberglass insulation blanket through an interval cutter to cut the fiberglass insulation blanket along a cut line to form two side-by-side strips separated by a series of intermittent gaps to form a frangible plane extending along the cut line, wherein the act of passing comprises the acts of discharging a flow of high-pressure fluid to intercept and penetrate the fiberglass insulation blanket along the cut line to form a gap in the fiberglass insulation blanket as the fiberglass insulation blanket is passed through the interval cutter and interrupting the flow of high-pressure fluid intermittently as the fiberglass insulation blanket is passed through the interval cutter to divert the flow of high-pressure fluid from intercepting and penetrating the fiberglass insulation blank intermittently to establish the series of intermittent gaps in the fiberglass insulation blanket.

See col. 16, line 14-col. 18, line 25 and Figs. 16-18.

Regarding claims 17 and 20, Weinstein teaches the step of passing the two side-by-side strips through a curing oven to form a frangible bridge spanning each of the series of intermittent gaps.

See col. 16, line 14-col. 18, line 25 and Figs. 16-18.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weinstein in view of Rudy et al. (6,752,373 B1), hereinafter Rudy.

Weinstein teaches the invention substantially as claimed except for the step of moving a fluid blocker relative to the fiberglass insulation blanket to intercept the flow of high-pressure fluid discharged toward the fiberglass insulation blanket to block the flow of high-pressure fluid from intercepting the fiberglass insulation blanket.

Rudy teaches the step of moving a fluid blocker 22 to intercept the flow of high-pressure fluid for precise high-speed interruption of the water jet. See Figs. 1-10.

Therefore, it would have been obvious to one skilled in the art to incorporate the step of moving a fluid blocker as taught by Rudy to the claimed method of Weinstein to precisely and quickly interrupt the flow of the water jet to create perfect cuts.

Allowable Subject Matter

6. Claims 3-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Croteau (5,083,487), Tuori (6,327,948 B1) and Life et al. (6,098,512) teach water jet assemblies of general interest.

Wainwright et al. (4,693,153) and Pfarr et al. (5,931,178) teach fluid blockers of general interest.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phong H Nguyen whose telephone number is 571-272-4510. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

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more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PN: 

February 17, 2005



Allan N. Shoap
Supervisory Patent Examiner
Group 3700